



that a response may be deemed to be required, deny each and every allegation contained in paragraph 4 of the Complaint.

5. Defendant National Geographic Society admits that on or about August 22, 1995, National Geographic Society and Henry entered into a written agreement a copy of which is attached as Exhibit A to the Complaint. Defendants refer the Court to that document for its contents. The remaining allegations of paragraph 5 are denied to the extent they are inconsistent with, contradict or attempt to characterize the written agreement.

6. It is admitted that, under the Agreement between Henry and Defendant National Geographic Society, Henry transferred "all rights, including copyright and world publication rights" of the subject photographs to Defendant National Geographic Society. Defendants refer the Court to the written agreement for its contents. The remaining allegations of paragraph 6 are denied to the extent they are inconsistent with, contradict or attempt to characterize the written agreement.

7. Defendants admit the allegations of paragraph 7.

8. Defendant NGE, Inc. admits that on or about April 7, 1999, NGE, Inc. and Henry entered into a written agreement a copy of which is attached as Exhibit B to the Complaint. Defendants refer the Court to that document for its contents. The remaining allegations of paragraph 8 are denied to the extent they are inconsistent with, contradict or attempt to characterize the written agreement.

9. Defendants deny the allegations of paragraph 9.

10. Defendants deny the allegations of paragraph 10.

11. Defendants deny the allegations of paragraph 11.

12. Defendants admit the allegations of paragraph 12.

13. Defendants deny the allegations of paragraph 13.

14. Defendants deny the allegations of paragraph 14.

15. Defendants deny the allegations of paragraph 15.

COUNT I

16. Defendants incorporate their answers from paragraphs 1 through 15 as if specifically set forth herein again.

17. Defendants deny the allegations of paragraph 17.

18. Defendants deny the allegations of paragraph 18.

COUNT II

19. Defendants incorporate their answers from paragraphs 1 through 18 as if specifically set forth herein again.

20. Defendants deny the allegations of paragraph 20.

21. Defendants deny the allegations of paragraph 21.

COUNT III

22. Defendants incorporate their answers from paragraphs 1 through 21 as if specifically set forth herein again.

23. Defendants deny the allegations of paragraph 23.

24. Defendants deny the allegations of paragraph 24.

25. Defendants deny the allegations of paragraph 25.

26. Defendants deny the allegations of paragraph 26.

27. Defendants deny the allegations of paragraph 27.

28. Defendants deny the allegations of paragraph 28.

29. Defendants deny the allegations of paragraph 29.

Defendants deny all other allegations of the Complaint not specifically admitted.

FIRST AFFIRMATIVE DEFENSE

The Complaint fails to state a claim against any of the Defendants upon which relief can be granted.

SECOND AFFIRMATIVE DEFENSE

Defendants use of the subject photographs was fully within their rights, and Defendants have at all times fully performed their obligations under their agreements with the Plaintiff.

THIRD AFFIRMATIVE DEFENSE

Defendants are the owners of all rights, including copyright and world publication rights, in and to the subject photographs.

FOURTH AFFIRMATIVE DEFENSE

Plaintiff's claims are barred by the doctrine of accord and satisfaction.

FIFTH AFFIRMATIVE DEFENSE

Plaintiff's claims under Mass. G.L. ch. 93A are preempted by the federal copyright statute, 17 U.S.C. §101 et seq.

SIXTH AFFIRMATIVE DEFENSE

The alleged unfair and deceptive acts did not occur primarily and substantially within the Commonwealth of Massachusetts.

Respectfully submitted,

NATIONAL GEOGRAPHIC SOCIETY  
And NGE, INC. d/b/a/ NATIONAL  
GEOGRAPHIC INTERACTIVE

By their attorneys,



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Dated: March 14, 2001

Of Counsel

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**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing Answer to the Plaintiff's Complaint was served upon the following counsel of record by facsimile and regular mail on March 14, 20001

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